

ORDINANCE NO. 2007-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GILROY REGULATING MUNICIPAL ELECTIONS BY REPEALING ORDINANCE NOS. 2001-11 AND 2003-07 IN THEIR ENTIRETY AND BY REPLACING IT WITH A NEW ORDINANCE REGULATING MUNICIPAL ELECTIONS BY ESTABLISHING CAMPAIGN CONTRIBUTION LIMITS, ESTABLISHING A VOLUNTARY EXPENDITURE CEILING FOR CANDIDATES AND CONTROLLED COMMITTEES AND BY PLACING RESTRICTIONS ON THE AGGREGATION OF CAMPAIGN CONTRIBUTIONS.

WHEREAS, the Political Reform Act of 1974("the Act") set forth in California Government Code section 81000 *et. seq.* governs the conduct of campaigns, and sections 81013 and 85703 grant local agencies the power to enact certain ordinances that govern the financing of local elections so long as the requirements do not interfere with a person's compliance with the Act; and

WHEREAS, the City Council clarified the status of its campaign financing and contribution regulations by repealing Resolution Nos. 97-43 and 83-25, and by adopting the City's campaign financing and contribution regulations in Ordinance No. 2001-11, which was amended by Ordinance No. 2003-07; and

WHEREAS, although the Act was applicable absent local regulation, the City Council now desires to clarify Ordinance Nos. 2001-11 and 2003-07, which did not expressly set forth the restrictions on the aggregation of campaign contributions as defined in Government Code section 85311; and

WHEREAS, this Ordinance relates to an election, and pursuant to section 608 of the Charter of the City of Gilroy, such an ordinance takes effect upon adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GILROY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I

Ordinance Nos. 2001-11 and 2003-07 are hereby repealed in their entirety and replaced by a new Ordinance No. 2007-09.

SECTION II

1. The City Council does hereby establish a voluntary campaign expenditure ceiling for a candidate for municipal office and for any and all controlled committees of such candidate, in the aggregate not to exceed \$0.50 per resident for each municipal election.
2. The City Council does hereby establish a campaign contribution limit of Two Hundred and Fifty Dollars (\$250.00) per election to a candidate for municipal office who elects to comply with the voluntary expenditure ceiling, which limit shall apply to the total of all contributions to the candidate and to any controlled committee of such candidate, from any person other than a candidate in aid of himself or herself.
3. The City Council does hereby establish a campaign contribution limit of Two Hundred and Fifty Dollars (\$250.00) per election by any person to an independent committee in aid of and/or in opposition to the nomination or election of a candidate for municipal office.
4. The City Council does hereby establish a campaign contribution limit of One Hundred Dollars (\$100.00) per election to a candidate for municipal office who does not adopt the voluntary expenditure ceiling, which limit shall apply to the total of all contributions to the candidate and to any controlled committee of such candidate, from any person other than a candidate in aid of himself or herself.
5. Each candidate must file an expenditure ceiling statement with the city clerk indicating whether or not he or she will participate in the voluntary campaign expenditure limit program before accepting or receiving any campaign contributions. The city clerk shall ask the Registrar of Voters to prominently designate those candidates who participate in the program on the ballot, in the ballot pamphlet and in the sample ballot.

6. It shall be prohibited for any person, other than a candidate in aid of himself or herself, to make any campaign contribution to a candidate for municipal office, or to any controlled committee of such candidate, which will cause the total amount contributed by such person to a candidate and all controlled committees of such candidate, with respect to a single election in support of such candidate, to exceed Two Hundred and Fifty Dollars (\$250) if the candidate has adopted the voluntary expenditure ceiling, or to exceed One Hundred Dollars (\$100) if the candidate has not adopted the voluntary expenditure ceiling.
7. It shall be prohibited for any candidate for municipal office, or any controlled committee of such candidate, to solicit or accept any campaign contribution which will cause the total amount contributed by any person to a candidate and all controlled committees of such candidate, other than a candidate in support of himself or herself, with respect to a single election in support of such candidate, to exceed Two Hundred and Fifty Dollars (\$250) if the candidate has adopted the voluntary expenditure ceiling, or to exceed One Hundred Dollars (\$100) if the candidate has not adopted the voluntary expenditure ceiling.
8. Any person who makes or receives or solicits or accepts a contribution or makes an expenditure in violation of the provisions of this Ordinance may be liable in a civil action, in addition to other remedies provided by law, for an amount up to One Thousand Dollars (\$1,000) or for an amount up to three (3) times the amount of the unlawful contribution or expenditure, whichever amount is greater, for each violation.
9. "*Person*" shall mean an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.
10. "*Committee*" and "*controlled committee*" shall have the same meaning as defined in California Government Code sections 82013 and 82016 respectively, as such sections may be amended from time to time.

11. *"Contribution"* shall have the same meaning as defined in California Government Code section 82015, except that, as set forth in section 85312, payments for communications to members, employees, shareholders, or families of members, employees, or shareholders of an organization for the purpose of supporting or opposing a candidate are not contributions or independent expenditures, provided those payments are not made for general public advertising such as broadcasting, billboards, newspaper advertisement.
12. (a) For purposes of the contribution limits of this ordinance, the following terms have the following meanings:
 - (1) *"Entity"* means any person, other than an individual.
 - (2) *"Majority owned"* means an ownership of more than 50 percent.

(b) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(c) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(d) Contributions made by entities that are majority owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority owned by that person, unless those entities act independently in their decisions to make contributions.
13. *"Independent committee"* shall mean all committees other than controlled committees.

SECTION III

The City Council hereby finds that the campaign financing regulations set forth in this Ordinance are in addition to, and not inconsistent with, any and all laws governing municipal

elections enacted in the Political Reform Act of 1974, and that these regulations herein enacted are not intended to interfere with a person's compliance with that Act.

SECTION IV

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise void or invalid by any court of competent jurisdiction, the validity of the remaining portion of this Ordinance shall not be affected thereby.

SECTION V

Pursuant to section 608 of the Charter of the City of Gilroy regarding ordinances relating to an election, this Ordinance shall be in full force and effect upon its adoption.

PASSED AND ADOPTED this 16th day of April, 2007, by the following vote:

AYES: COUNCILMEMBERS: ARELLANO, BRACCO, CORREA, GARTMAN,
VALIQUETTE, VELASCO, and PINHEIRO

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

(d)(5)

Al Pinheiro, Mayor

ATTEST

(d)(5)

Rhonda Pellin, City Clerk

I, RHONDA PELLIN, City Clerk of the City of Gilroy, do hereby certify that the attached Ordinance No. 2007-12 is an original ordinance, or a true and correct copy of a city ordinance, duly adopted by the Council of the City of Gilroy at a regular meeting of said Council held on the 16th day of April, 2007, at which meeting a quorum was present, and has been published or posted pursuant to law.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this 27th day of April, 2007.

(d)(5)

A rectangular area of the document is redacted with a solid grey fill. The redaction covers the signature of the City Clerk.

City Clerk of the City of Gilroy

(Seal)